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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 FLOYD COLLINS, No. C 05-3303 CRB  
12 Petitioner ORDER TO SHOW CAUSE  
13 v.  
14 THOMAS L. CAREY,  
15 Respondent.

16 Petitioner, who is in the custody of the California Department of Corrections, has filed  
17 a petition for a writ of habeas corpus pursuant to 28 U.S.C. section 2254. Petitioner was  
18 convicted of first degree murder after a jury trial in San Francisco County. Accordingly,  
19 venue is proper. See Local Rule 2254-3.

20 This Court may entertain a petition for a writ of habeas corpus “in behalf of a person  
21 in custody pursuant to the judgment of a State court only on the ground that he is in custody  
22 in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2254(a);  
23 Rose v. Hedges, 423 U.S. 19, 21 (1975).

24 A district court shall “award the writ or issue an order directing the respondent to  
25 show cause why the writ should not be granted, unless it appears from the application that the  
26 applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243. Summary dismissal  
27 is appropriate only where the allegations in the petition are vague or conclusory, palpably  
28 incredible, or patently frivolous or false. Hendricks v. Vasquez, 908 F.2d 490, 491 (9th Cir.

1 1990) (quoting Blackledge v. Allison, 431 U.S. 63, 75-76 (1977)).

2 The Court has reviewed the petition and finds good cause to proceed. Accordingly,

3 1. The Clerk of the Court shall serve by certified mail a copy of this Order  
4 and the petition and all attachments thereto upon the respondents and the respondents'  
5 counsel, the Attorney General of the State of California. The Clerk shall also serve a copy of  
6 this Order on the petitioner's counsel.

7 2. Respondents shall file with this Court and serve upon the petitioner,  
8 within sixty (60) days of the issuance of this Order, an answer conforming in all respects to  
9 Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of habeas  
10 corpus should not be issued. Respondent shall file with the answer a copy of all portions of  
11 the state trial and appellate record that have been transcribed previously and that are relevant  
12 to a determination of the issues presented by the petition.

13 3. If the petitioner wishes to respond to the answer, he shall do so by filing  
14 a traverse with the court and serving it upon the respondents within thirty (30) days of his  
15 receipt of the answer.

16 **IT IS SO ORDERED.**

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18 Dated: August 16, 2005



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CHARLES R. BREYER  
UNITED STATES DISTRICT JUDGE